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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 ANTOINE W. HARRIS,  
10 Plaintiff,

11 v.

12 UNITED STATES OF AMERICA, *et al.*,  
13 Defendants.  
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Case No.: 3:19-CV-00049-RCJ-WGC  
ORDER OF DISMISSAL

15 The Court issued its Order Adopting and Accepting Report and Recommendation  
16 of United States Magistrate Judge (ECF No. 26), notifying Harris that he shall have 90  
17 days from February 24, 2021, to file a motion for leave to amend and proposed amended  
18 complaint or file a properly supported and complete motion for the Court to issue a Rule  
19 45 subpoena duces tecum. To date, Harris has failed to comply with the Court's Order  
20 (ECF No. 26).

21 District courts have the inherent power to control their dockets and "[i]n the  
22 exercise of that power, they may impose sanctions including, where appropriate . . .  
23 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
24 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
25 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
26 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance  
27 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal  
28 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856

1 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring  
2 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833  
3 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*  
4 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and  
5 failure to comply with local rules).

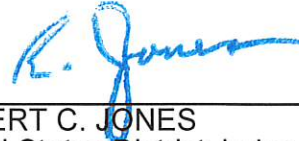
6 In determining whether to dismiss an action for lack of prosecution, failure to obey  
7 a court order, or failure to comply with local rules, the court must consider several factors:  
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
11 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;  
12 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

13 In the instant case, the Court finds that the first two factors, the public's interest in  
14 expeditiously resolving this litigation and the Court's interest in managing the docket,  
15 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
16 in favor of dismissal, since a presumption of injury arises from the occurrence of  
17 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See  
18 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy  
19 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor  
20 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
21 the court's order will result in dismissal satisfies the "consideration of alternatives"  
22 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
23 F.2d at 1424. The Court's order requiring Plaintiff to file an amended complaint, expressly  
24 stated: "It is further ordered that if Plaintiff fails to move to amend or file a motion for  
25 issuance of Rule 45 subpoena within 90 days, this action will be dismissed, and the case  
26 will be closed. (ECF No. 26). Thus, Plaintiff had adequate warning that dismissal would  
27 result from his noncompliance with the Court's order to file an amended complaint on or  
28 before Tuesday, May 25, 2021.

1 IT IS ORDERED that this action is DISMISSED based on Plaintiff's failure to file  
2 an amended complaint with the Court in compliance with this Court's Order filed February  
3 24, 2021, (ECF No. 26).

4 IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment  
5 accordingly and close the case.

6 DATED this 23<sup>rd</sup> day of June, 2021.



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ROBERT C. JONES  
United States District Judge